

House File 2192 - Reprinted

HOUSE FILE 2192
BY COMMITTEE ON ECONOMIC
GROWTH

(SUCCESSOR TO HF 516)
(SUCCESSOR TO HSB 111)

(As Amended and Passed by the House February 18, 2014)

A BILL FOR

1 An Act relating to rural water providers by making changes to
2 water service requirements.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 357A.1, Code 2014, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 6A. *"Rural water association"* or
4 *"association"* means a rural water association organized and
5 incorporated as a cooperative association under chapter 499 or
6 as a nonprofit corporation under chapter 504.

7 Sec. 2. Section 357A.2, subsections 3 and 4, Code 2014, are
8 amended to read as follows:

9 3. Water services, other than water services provided as
10 of April 1, 1987, shall not be provided within two miles of
11 the limits of a city by a rural water district incorporated
12 under this chapter ~~or chapter 504~~ except as provided in this
13 section. Except as otherwise provided in this chapter, a rural
14 water association shall not provide water services within two
15 miles of a city, other than water services provided as of July
16 1, 2014.

17 4. a. A rural water district ~~incorporated under this~~
18 ~~chapter or chapter 504~~ or rural water association may give
19 notice of intent to provide water service to a new area
20 within two miles of a city by submitting a water plan to
21 the city. This subsection shall not apply in the case of a
22 district or association extending service to new customers
23 or improving existing facilities within existing district or
24 association service areas or existing district or association
25 agreements. If water service is provided by a city utility
26 established under chapter 388, the water plan shall be filed
27 with the governing body of that city utility. The district
28 or association shall provide written notice pursuant to this
29 subsection by certified mail.

30 b. The water plan is only required to shall indicate
31 the area within two miles of the city which the ~~rural water~~
32 district or association intends to serve within the next three
33 years. Upon request, the city or city utility shall provide
34 a district or association with a map of the city limits that
35 indicates areas that are currently provided water service by

1 a city utility or enterprise.

2 c. If the city fails to respond to the ~~rural-water~~
3 ~~district's water plan~~ within ninety seventy-five days of
4 receipt of the plan, the ~~rural-water~~ district or association
5 may provide service in the area designated in the plan. The
6 city may inform the ~~rural-water~~ district or association within
7 ninety seventy-five days of receipt of the plan that the city
8 requires additional time or information to study the question
9 of providing water service outside the limits of the city. If
10 additional time or information is required, the city shall
11 respond to the ~~rural-water-district's plan~~ by certified mail
12 within one hundred ~~eighty~~ sixty-five days of receipt of the
13 plan.

14 d. (1) In responding to the plan, the city may
15 affirmatively waive its right to provide water service within
16 the areas designated for water service by the rural water
17 district, or the city may reserve the right to provide water
18 service in some or all of the areas which the ~~rural-water~~
19 district or association intends to serve.

20 (2) (a) If the city reserves the right to provide water
21 service, the city shall provide the district or association
22 with a copy of the city's water plan relating to the city's
23 intent and ability to provide water service to such an area.

24 (b) If the city reserves the right to provide water service
25 within some or all of the areas which the ~~rural-water~~ district
26 or association intends to serve, the city shall provide service
27 within ~~four~~ three years of receipt of the water plan submitted
28 under paragraph "a". ~~This section does not preclude a city~~
29 ~~from providing water service in an area which is annexed by the~~
30 ~~city.~~

31 (c) If the city reserving the right to provide service
32 fails to provide service within three years of receipt of the
33 water plan submitted under paragraph "a", the city waives its
34 right to provide water service and shall provide notice to the
35 district or association by certified mail and the district or

1 association may provide service within the area of the water
2 plan submitted under paragraph "a". If the city fails to
3 provide notice to the district or association, the district
4 or association may provide service in accordance with this
5 paragraph, regardless of whether the district or association
6 has received such notice.

7 (3) If the district or association fails to provide
8 service within three years after a city waives the right to
9 provide water service under this paragraph "d", the district
10 or association shall provide notice to the city by certified
11 mail and the city may provide service within the area of the
12 water plan submitted under paragraph "a". If the district or
13 association fails to provide notice to the city, the city may
14 provide service in accordance with this paragraph, regardless
15 of whether the city has received such notice.

16 (4) For purposes of this paragraph "d", "provide water
17 service" and "provide service" mean to deliver water in
18 sufficient quantity and quality to meet customer demand. The
19 department of natural resources shall determine whether such
20 service meets customer demand.

21 Sec. 3. Section 357A.2, Code 2014, is amended by adding the
22 following new subsection:

23 NEW SUBSECTION. 5. This section does not preclude a city
24 from providing water service in an area which is annexed by the
25 city pursuant to section 357A.21.

26 Sec. 4. Section 357A.21, Code 2014, is amended to read as
27 follows:

28 **357A.21 Annexation of land by a city — mediation —**
29 **arbitration.**

30 1. A water district organized under this chapter, chapter
31 357, 499, or 504 or association shall be fairly compensated for
32 losses resulting from annexation. The governing body of a city
33 or water utility and the board of directors or trustees of the
34 water district or association may agree to terms which provide
35 that the facilities owned by the water district or association

1 and located within the city shall be retained by the ~~water~~
2 district or association for the purpose of transporting water
3 to customers outside the city.

4 2. If an agreement is not reached under subsection 1,
5 the governing body of the city or water utility or the board
6 of directors or trustees of the district or association may
7 request mediation pursuant to chapter 679C. The governing
8 body or board requesting mediation shall be responsible for
9 the costs of the mediation. A mediation committee shall be
10 established if a governing body or board requests mediation
11 pursuant to this subsection. The mediation committee shall
12 consist of one member of the governing body of the city or the
13 governing body's designee, one member of the board of directors
14 or trustees of the district or association, as applicable, and
15 one disinterested member chosen by the other two members. A
16 list of qualified mediators may be obtained from the American
17 arbitration association, the public employment relations board
18 established pursuant to section 20.5, or a recognized mediation
19 organization or association.

20 3. If an agreement is not reached within ninety days, the
21 issues may be submitted to arbitration. If submitted, an
22 arbitrator shall be selected by a committee which includes
23 one member of the governing body of the city or its designee,
24 one member of the ~~water~~ district's or association's board of
25 directors or trustees or its designee, as applicable, and a
26 disinterested party selected by the other two members of the
27 committee. A list of qualified arbitrators may be obtained
28 from the American arbitration association or other recognized
29 arbitration organization or association.

30 **Sec. 5. NEW SECTION. 388.11 Liability within two miles.**

31 A city or city utility providing water service within two
32 miles of the limits of the city shall not be liable for a claim
33 for failure to provide or maintain fire hydrants, facilities,
34 or an adequate supply of water or water pressure for fire
35 protection purposes in the area receiving water service if such

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1 hydrants, facilities, or water are not intended to be used for
2 fire protection purposes.